

In consequence, this revision application is accepted, the appellate order of the appellate Court is set aside, and the directions to the appellate Court now is to proceed to hear the appeal on merits and dispose of it according to law. There is no order in regard to costs in this application. The parties are directed to appear before the appellate Court on November 20, 1967.

K.S.K.

CIVIL MISCELLANEOUS

Before Tej Chand, J.

THE MANAGING COMMITTEE OF NATIONAL COLLEGE,—*Petitioner*
versus

THE PANJAB UNIVERSITY,—*Respondent*

Civil Writ No. 135 of 1967

October 20, 1967

Panjab University Act (VII of 1947)—Ss. 2(c), 5, 11(2), 20, 27, 29 and 31(2)—Panjab University Calender—Chapter III(A)—Regulation 11 and 12—Regulations passed by the Senate—Whether can be amended or abridged by the Syndicate—“The executive government of the University shall be vested in the Syndicate”—Meaning of—Termination of the services of a permanent Principal of an affiliated College—Prior concurrence of the University—Whether necessary—Power of the syndicate to call upon an affiliated college to take certain action—Whether amounts to impinging upon Regulation 11 and 12—Constitution of India (1950)—Article 226—Administrative orders—Whether can be interfered with.

Held, that the syndicate of the Panjab University has no power conferred on it by the Panjab University Act, 1947 or by the Regulations made thereunder to amend or abridge the Regulations made by the Senate with the sanction of the Government. The phrase “the executive government of the University shall be vested in the syndicate”, cannot be given the wide meaning to embrace within its ambit all powers of making or adding to the Regulations which vest only in the Senate and that too, after obtaining the sanction of the government. The syndicate is not the executive government of the University strictly so called, but a body with a power to take executive action to administer and manage the affairs and to control and regulate the working of the University.

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Held, that section 27 of the Act *inter alia* provides that the application for affiliation of a College to the University shall contain an assurance that after the College is affiliated, any transference of management and all changes in the teaching staff shall be forthwith reported to the Syndicate. But the scope of this requirement cannot be extended so as to include submission to a decision of the Syndicate requiring the proper concurrence of the University before terminating the services of a permanent Principal. That decision of the Syndicate, in so far as it is contrary to the requirements of a Regulation, is illegal and *ultra vires*.

Held, that section 29 of the Act gives power to the Syndicate to cause every affiliated College to be inspected, and to call upon any such College so inspected to take within a specified period, such action as may appear to them to be necessary in respect of matters referred to in Section 27(1) of the Act. The language of section 29, however, cannot be stretched so as to include a new condition impinging upon the scope of Regulations 11 and 12.

Held, that the issue of writs or directions is in the judicial discretion of the High Courts and it has not been considered advisable by the Courts to lay down in the form of any formula, that the discretion is to be exercised in such and such circumstances only. The powers of the High Courts under the Constitution are not confined to the issuance of prerogative writs. Article 226 empowers the High Court to issue to any person or authority "any directions, orders or writs". The High Court has the power to interfere in the case of such administrative orders as are made in defiance of mandatory provisions of law or without any jurisdiction.

Petition under Articles 226/227 of the Constitution of India, praying that a writ in the nature of certiorari, mandamus or any other appropriate writ order or direction be issued quashing the illegal order of the Respondent University contained in Annexure 'Q'.

N. S. GREWAL, ADVOCATE, for the Petitioner.

H. R. SODHI SENIOR ADVOCATE WITH N. K. SODHI AND R. L. BATTÀ, ADVOCATES,
for the Respondents.

ORDER

TEK CHAND, J.—This is a petition filed by the Managing Committee of National College, Sothiala, tehsil and district Amritsar through Brigadier G. S. Bal, the General Secretary against the Panjab University, Chandigarh, through the Registrar, seeking *inter alia* issuance of a writ or an appropriate order declaring that

the decision of the University withdrawing concurrence to the suspension or dismissal of Shri Kartar Singh, Principal of the petitioner College, as *ultra vires* the Panjab University Act and the Regulations framed thereunder, and without jurisdiction and quashing the same, and further, issuance of a writ of Prohibition restraining the University and its officials from illegally coercing the petitioner to take back a legally dismissed employee.

The petitioner appointed Shri Kartar Singh as the Principal of the College but later found him "grossly negligent, inefficient, indisciplined, insubordinate, vindictive towards his staff members and some students, given to showing undue favours to his favourites and otherwise misconducting himself in the discharge of his duties including absence from duty without leave". It was, therefore, unanimously decided to immediately suspend him and charge-sheet him and to hold an enquiry into the various charges against him under Regulations 11 to 14 in Chapter III(A) (1) of the Panjab University Calendar, 1966, Volume I. In pursuance of this unanimous Resolution, Shri Kartar Singh was suspended on 20th March, 1966, and a charge-sheet was issued to him on 2nd April, 1966,—*vide* Annexure "A" and a supplementary charge-sheet was issued to him on 27th April, 1966 (Annexure 'B'). Shri Kartar Singh submitted his written explanations,—*vide* Annexure 'A-1' and 'B-1'. The petitioner Committee not being satisfied with the explanations, appointed a Sub-Committee of three members to go into the facts and into the charges. In reply, Shri Kartar Singh sent two letters dated 10th May, 1966 (Annexure 'G') and dated 13th May, 1966 (Annexure 'H'), but did not appear personally. He was given one more opportunity by the Enquiry Committee requiring him to appear before the Sub-Committee, otherwise he would be proceeded *ex parte*, but Shri Kartar Singh did not come and addressed a letter to the Committee, copy of which is Annexure 'K'. It is then said that the Enquiry Sub-Committee recorded the statements of forty witnesses and unanimously found him guilty of all charges except one, and recommended his dismissal from service,—*vide* Annexure 'L'. The petitioner Committee unanimously accepted the findings of the Sub-Committee and issued notice to Shri Kartar Singh to show cause why the proposed action to dismiss him be not taken. He was given two days' time for this but he never submitted any explanation. Consequently, Shri Kartar Singh stood dismissed from service with effect from 16th June, 1966.

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On 1st January, 1966, the Registrar of the University sent a letter to the President of the petitioner Committee drawing the attention of the latter to the following decision of the Syndicate:—

“Services of a permanent Principal in an affiliated College be not terminated without the prior concurrence of the University.”

vide Annexure ‘N’, The Registrar addressed a letter to the Secretary of the College Managing Committee, dated 10th May, 1966, in reply to their earlier query that in the case of a permanent Principal, prior concurrence of the Vice-Chancellor was to be obtained before terminating his services,—*vide* Annexure ‘O’. In compliance with the above, the Secretary of the College Managing Committee, giving the circumstances of Shri Kartar Singh’s dismissal and the procedure adopted, wrote to the Registrar:—

“I would request you to give your approval of the proposed action of dismissal against Shri Kartar Singh, M.A., Principal.....

vide Annexure ‘P’. At a meeting of the Syndicate held on 8th December, 1966, it was decided not to give concurrence to the suspension or dismissal of the Principal. This decision was conveyed to the petitioner Committee on 29th of December, 1966, by letter Annexure ‘Q’. It was mentioned:—

“That the University do not give its concurrence to the suspension or dismissal of S. Kartar Singh, Principal of National College, Sathiala, and the College Authorities be asked to reinstate him immediately.”

The Committee was asked to reinstate Shri Kartar Singh immediately, and the University be informed accordingly,—*vide* Annexure ‘Q’. It may further be mentioned in this connection that the Syndicate had decided to take action with a view to disaffiliate the College and notices for disaffiliation were afoot. In these proceedings, action to disaffiliate the College does not form a subject-matter of the writ petition. The dispute is confined to the University’s power to order the petitioner to reinstate a dismissed Principal.

It is alleged on behalf of the petitioner that in view of the Principal's close friendship with high officers of the University, efforts were being made to illegally coerce and pressurise it. A report was made by the Registrar to the Assistant Educational Officer, Government of India, Ministry of Education, New Delhi, dated 28th of December, 1966, stating as follows:—

“The Syndicate decided:

- (i) That a Committee consisting of Shri Gurdial Singh Dhillon, Principal O. P. Mohan and Dr. S. S. Anand be appointed to inspect the College, make further enquiries, and report to the Syndicate.
- (ii) That the University do not give its concurrence to the suspension or dismissal of S. Kartar Singh, Principal of the National College, Sathiala, and the College authorities be asked to reinstate him immediately.

Notwithstanding this decision of the Syndicate, which was duly communicated to the Secretary of the College on 14th December, 1966, they have not yet reinstated the Principal, Shri Kartar Singh. Under these circumstances, the payment of the third instalment of the grant of Rs. 8,000 sanctioned to this College,—*vide* your letter No. F-15-6 (i)/61-P.E. 1, dated 19th May, 1966, has been withheld.”

(Annexure 'R'). The Registrar of the University addressed on 3rd January, 1967, a letter to the President of the petitioner Committee, stating:

“As you know that the Syndicate of this University has not concurred with your decision to remove Shri Kartar Singh from the Principalship of your College, and the Syndicate has further decided that he may be reinstated immediately—thus Shri Kartar Singh is the rightful Principal of your College. You are, therefore, requested to kindly submit admission forms of the students appearing from your College in the various University examinations duly accepted by this office.”

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vide Annexure 'S'. The grievance of the petitioner is that order dated 14th December, 1966, of the University (Annexure 'Q') requiring the petitioner to reinstate Shri Kartar Singh immediately, was without jurisdiction, *ultra vires* and motivated by ulterior consideration and the communications Annexures 'R' and 'S' were coercive in character with the object of intimidating and pressurising the petitioner to submit to the illegal demands of the University as its officers wanted to unduly favour Shri Kartar Singh. It was said that the University officers went to the extent of harming the students by first requiring that the admission forms of the students appearing from the petitioner's College in the various University examinations should be duly attested by Shri Kartar Singh although he had been dismissed from service,—*vide* Annexure 'S'. Reference was also made to another communication from the Registrar to the Secretary of the petitioner Committee dated 9th of January, 1967 (Annexure 'T'), stating:

"I am to inform you that the Vice-Chancellor has passed orders that no papers pertaining to University business, etc., signed by another Principal, except Shri Kartar Singh, an approved Principal of National College, Sathiala, be accepted by this office."

Not content with that, the University returned the admission forms to the College "for getting these attested by S. Kartar Singh, Principal, National College, Sathiala and resubmission to this office after compliance". It may be mentioned that by that date not only Shri Kartar Singh had ceased to be the Principal, but another Principal had been appointed. This instance was cited as an illustration of the vindictive attitude towards the petitioner and as an act of gross favouritism *vis-a-vis* Shri Kartar Singh, the dismissed Principal. All these measures were resorted to with a view to coerce the petitioner to reinstate him.

In the return filed on behalf of the University, want of knowledge is pleaded as to how far the allegations that Shri Kartar Singh was guilty of negligence, indiscipline, insubordination or vindictiveness towards the staff, etc., are correct. The University has maintained that no dismissal of a Principal of an affiliated College could be ordered without the prior concurrence of the University, which had not been obtained in the instant case. The allegations of

mala fides were denied. Reference was also made to a notice served on the petitioner College of disaffiliation. As to the prior concurrence of the Vice-Chancellor, it was claimed that it was in accordance with the rules of the University, though the actual rule was not cited. A reference was made to a decision of the Syndicate,—*vide* Annexure 'R-2'. The allegation regarding refusal to accord concurrence till the dismissed Principal was reinstated was not denied.

The sole question in this case is whether the Syndicate of the University had the power to decide that prior to dismissal of a Principal of an affiliated College, prior concurrence of the Vice-Chancellor of the University was to be obtained, and whether such a decision had the force of a rule binding on the petitioner. A reference to the University Act and Regulations is necessary at this stage. Section 2(c) of the Panjab University Act defines "regulation" as meaning "any regulation made by the Senate". Under Section 11(2) the Senate has "the entire management of, and superintendence over the affairs, concerns and property of the University and shall provide for that management, and exercise that superintendence in accordance with the statutes, rules and regulations for the time being in force". Section 20 referring to the Syndicate, provides that the "Executive Government of the University shall be vested in the Syndicate.....". Section 31 deals with Regulations and provides that the Senate with the sanction of the Government, may, from time to time, make regulations consistent with this Act to provide for all matters relating to the University. Sub-section (2) has particularised items (a) to (u), the last item being regulation providing for "adequate arrangement for proper administration of the colleges other than Government Colleges affiliated to the University".

The Regulations to govern service and conduct of teachers in non-Government affiliated Colleges are contained in Chapter III(A) of the Panjab University Calendar. In this case, the relevant Regulations are 11 and 12 which are reproduced below:—

- "11. Subject to what is contained in Regulations Nos. 12, 13, 14 and 15, the Governing Body of a non-Government college shall be entitled to determine the engagement of a permanent employee after giving him three months' notice in writing or on payment of three months' salary

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in lieu of notice, for a good cause, Provided that in case of moral turpitude or misconduct the Governing Body shall have the right to suspend the employee with immediate effect. The period of suspension shall not exceed three months within which the case must be decided. During the period of suspension the employee shall be paid an allowance equal to half the amount of pay of the employee. If ultimately the employee is removed from service notice for such removal shall not be required nor **will any salary be paid in lieu thereof.**

12. The Governing Body shall not determine the engagement of an employee whether summarily or otherwise without informing him in writing of the grounds on which they propose to take action and without giving him a reasonable opportunity of stating his case in writing; and before coming to a final decision, shall duly consider the teacher's statement and if he so desires shall give him a personal hearing."

It is not disputed on behalf of the University that these two Regulations were not complied with by the petitioner, nor is it contended that there are other Regulations besides these two which needed compliance. The case of the University is that the Syndicate had taken a decision on 23rd of September, 1961, on the recommendations of a Committee appointed by it which is as under:—

"That besides the service conditions already laid down with regard to teachers in affiliated colleges, the following two conditions be also added for Principals:—

- (i) Before the appointment of a Principal in an affiliated college is made, prior approval of the University be taken;
- (ii) Service of a permanent Principal in an affiliated college be not terminated without the prior concurrence of the University."

vide R-2.

The question that arises is whether it is open to the Syndicate to make a decision which is not in accordance with the provisions of Regulations 11 and 12 reproduced above. The power to suspend or dismiss an employee which means a teacher, including the Principal, in the service of a non-Government College has been recognised in the governing body of such a College and the procedure for doing so is laid down. In compliance with the procedure, the governing body "shall be entitled to determine the engagement of a permanent employee". The usual safeguards as to notice and as to the giving of an opportunity, are laid down in the Regulations and were observed in this case. The question is whether this power of the Governing Body conferred under the Regulations, which could be made only by the Senate and with the sanction of the Government could be abridged or amended by a Resolution of the Syndicate. The Syndicate has no such specific power conferred upon it by the Act or by the Regulations. A reference was made by the learned counsel for the University to Section 20 of the Act, that the executive Government of the University shall be vested in the Syndicate. This, however, does not mean that contravening the provisions of the Regulations amending them or adding to them by the Syndicate could be deemed as exercise of the executive Government of the University. I should have thought that it would have been more appropriate to use the term "The Executive Government" than the expression "Government". The latter expression "Government" admits of certain ambiguity, as it means not only the action of or manner of governing, which is really conveyed by the word "Government", but also the office of Government or the authority to govern. The Syndicate is not the executive Government strictly so called, but a Body with a power to take executive action to administer and manage the affairs and to control and regulate the working of the University.

Even the phrase "The executive Government of the University shall be vested in the Syndicate", cannot be given the wide meaning sought by the learned counsel to embrace within ambit all powers of making or adding to the Regulations, which vest only in the Senate and that too, after obtaining the sanction of the Government. The power of abridging or amending Regulations 11 and 12 through the decision of the Senate, cannot be construed to have been conferred by Section 20 of the Act. Reference was also made to Section 27 in the same connection. It inter alia provides that the

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application for affiliation of a College to the University shall contain an assurance that after the College is affiliated, any transference of management and all changes in the teaching staff shall be forthwith reported to the Syndicate. Bringing a matter to the notice of the Syndicate does not mean that the Syndicate has the power to add to or to alter what is laid down in the Regulations. In the instant case, it is not the grievance of the University that the application for affiliation did not contain the specific assurance and the changes in the staff were not reported. The scope of this requirement cannot be extended so as to include submission to a decision of the Syndicate requiring the proper concurrence of the University before terminating the services of a permanent Principal. That decision of the Syndicate, in so far as it is contrary to the requirements of a Regulation, is illegal and ultra vires. The learned counsel for the University sought to justify the decision of the Syndicate under the provisions of Section 29 which require an affiliated College to submit reports, returns and other information, as the Syndicate may require and also that the Syndicate shall cause every such College to be inspected. Giving the power to Syndicate to call upon any College so inspected to take, within a specified period, such action as may appear to them to be necessary in respect of matters referred to in Section 27(1), I do not think, that Section 29 is of any help; and the language cannot be stretched so as to include a new condition impinging upon the scope of Regulations 11 and 12.

The learned counsel's last resort was to the provisions of Section 5 dealing with the purposes of the University relating to imparting education, advancement of learning, prosecution of original research, with power to appoint teachers, to hold and manage educational endowments, etc., and "to do all such acts as tend to promote study and research". The language of Section 5 cannot be stretched so as to include power not only co-extensive with Section 31(1), but even proceeding beyond it. It was finally urged that the complained of act of the Syndicate was administrative in character, and was not such, as to entitle the petitioner to seek remedy under Article 226. The question certainly involves a matter of public importance, at least so far as non-Government institutions affiliated to the University are concerned. The issue of writs or directions is in the judicial discretion of this Court, and it has not been considered advisable by the Courts to lay down in the form of any formula, that the discretion is to be exercised in such and such

circumstances only. The powers of the Courts under the Constitution are not confined to the issuance of prerogative writs. Article 226 empowers this Court to issue to any person or authority "any direction, order or writs". This Court has the power to interfere in the case of such administrative orders as are made in defiance of mandatory provisions of law or without any jurisdiction. In the instant case, the impugned decision of the Syndicate was violative of the powers which vest in the Senate and the Government under the Statute and the Statutory Regulations.

The petition deserves to succeed and is, therefore, allowed. I will, therefore, quash the decision of the University declining to give its concurrence to the suspension or dismissal of Shri Kartar Singh, Principal and further requiring the petitioner to reinstate him. The University is restrained from requiring the petitioner to take back the Principal in its service, who has been dismissed seemingly, in accordance with the procedure laid down in Regulations 11 and 12. Any observations in this case made with regard to compliance with Regulations 11 and 12 are not to be taken to be an adjudication of a dispute as between the petitioner and the Principal Shri Kartar Singh, who was dismissed. There is no adjudication on merits of the differences, if any, between the employer and the employee.. I have not considered him to be proper party to be impleaded in a dispute which is directly between the petitioner and the University in which the exercise of powers by the Syndicate has been impugned on grounds of want of jurisdiction and illegality. In the circumstances of the case, I leave the parties to bear their own costs.

K.S.K.

REVISIONAL CIVIL

Before Prem Chand Pandit, J

BHAGAT PANJU RAM AND OTHERS,—*Petitioners*

versus

RAM LAL,—*Respondent*

Civil Revision No. 4 of 1966

October 23, 1967

*East Punjab Urban Rent Restriction Act (III of 1949)—S. 8—Scope of—
Suit for recovery of rent paid twice over—Whether covered by S. 8.*